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Hedge Fund To DealBreaker: Please Shut Up!

Yesterday representatives of Solengo Capital requested we remove [their marketing brochure](#) from our website. We told them to suck it.

You remember Solengo, right? It's the hedge fund that's being started by a team of traders from Amaranth, including the best known energy trader in the world, Brian Hunter.

Their reason for why we should do this sort of thing this request was quite extraordinary. Apparently the man from Solengo was under the impression that because his employer had stamped "confidential" (and other words to that effect) on its brochure, we were under a duty to keep their brochure confidential. It was as if the mere possession or perhaps knowledge of the brochure had conferred upon us a duty of confidentiality to them.

Imagine if you came upon a loan agreement stating a rate of interest a six points above LIBOR and were told later in the day that you were now under an obligation to pay the interest because you knew about it. You'd scoff, and not just because the interest rate was ridiculous. You know perfectly well that no one can impose a duty upon you without your agreement. You owe no one a debt unless you have agreed to pay them, taken something that belongs to them or they happen to be the government.

In the same way, we don't believe we operate subject to the unilateral confidentiality assertions that get stamped on emails, offering documents or marketing brochures. We'll keep the identity of our sources confidential—always—but that's because we have an open promise to people who share valuable information with us. But writing "confidential" on a document does not obligate DealBreaker or anyone else to keep your secrets secret.

Apparently, we're not the only ones Solengo has been asking to remove their brochure. Reuters reports that Solengo's censors have also hit NakedShorts.com. Apparently NakedShorts decided to take down the materials because Solengo threatened to sue and, well, you know what lawyers cost these days. Who wants that? There's no fault in keeping your powder dry, and we can't blame NakedShorts for backdown from this particular fight.

But what is more amazing is that Solengo keeps offering up the same lame rationale for why the online business press should bow to their will and remove the brochure—namely, because Solengo says so.

Here's what it's chief operating officer told Reuters:

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Posted By: MSM Hack

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Posted By:

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Posted By: Lionel Hutz

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Shondell Sabad, chief operating officer of Solengo, confirmed in an email that the firm has asked the blogs to remove the material.

"The request was made to remove the brochure as it is confidential material and the blogger was not authorized by Solendo to reproduce or disseminate the information," said Sabad in an email to Reuters

Confidential! Not authorized!

That's what we do around here, Sabad baby. We print things that, frankly, no one has authorized us to print or disseminate. No one but the founding fathers, the tradition of the free press and the First Amendment. (And, of course, Al Gore, inventor of these here internets, our investors, our sponsors and our very own personal founder, Elizabeth Spiers.)

The story continues, of course, because Solengo isn't taking no--or "suck it"--for an answer. More on that later!

[Ex-Amaranth traders ask blogs to remove materials](#) [Reuters]

By John Carney | 03.29.07 at 08:59 AM



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Ha, I always liked the "suck it" retort. Good luck guys.

Posted by: BA | [March 29, 2007 09:27 AM](#)

You guys are assholes. really. Just let them move on already. Why do you get pleasure in mocking people who are trying to get on with their lives?

Posted by: Anonymous | [March 29, 2007 09:36 AM](#)

so wait - they don't want their "Marketing Brochure" to be seen. isn't this selective enforcement (or attempted enforcement). i mean if you have the "marketing brochure" and you hand it out to all your buddies at the country club - i don't think they would be up in arms over this, but because it is being exposed to a public that might be beyond their core audience, they are having a hissy fit.

get over it and start trading.



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Posted by: vespa | [March 29, 2007 09:40 AM](#)

ANON 9:36...Excuse me? Are you a F*cking moron, nobody should be allowed to move on from collapsing a commodities player like Amaranth and putting so many talented individuals out of a job, not to mention a lucky moron who profited heavily off Katrina and then had attempted to do the same again but second time around ignored the weather reports. Those were exitable positions!!! My dead grandmother could've seen that storm turning north before the Keys. And both Hunter and his risk guy were asleep at the wheel.
DO NOT LET THEM MOVE ON

Posted by: RAGING | [March 29, 2007 09:49 AM](#)

Print the email trail!

Good on you for holding fast....

Posted by: anon | [March 29, 2007 10:01 AM](#)

- a) kudos for not taking crap from them.
- b) coincidentally, Anon 9:36 is my favorite passage from the New Testament.

Posted by: Zbignew | [March 29, 2007 10:04 AM](#)

The only thing worse than being talked about is not being talked about.

Posted by: Oscar Wilde | [March 29, 2007 10:20 AM](#)

No wonder Carney isn't at Skadden anymore. John-boy, you'd better brush up on the "Uniform Trade Secrets Act." It's been adopted in 42 states so far. NY and NJ protect trade secrets under common law. You can, in fact, be subject to a confidentiality obligation even if you never agreed to it.

Granted, Sabad made the wrong argument, but if he does get a decent lawyer, he could at least try to make the case that the documents contain trade secrets and must be protected. He'd probably lose, but your wild assertion that one does not owe a debt to another absent agreement completely overlooks STATUTORY AND COMMON LAW obligations. Woops. Not even our beloved First Amendment gives an unfettered right to publish whatever one wants, and trade secrets are among that protected class of restricted categories of speech.

I'd expect more from a proud Pelham Pelican.

Posted by: 10803 | [March 29, 2007 10:37 AM](#)

Not that I desire to defend the mostly indefensible Combustian Artist of Calgary, BUT... in this case, do you suppose he needs to show a good faith effort to contain uncontrolled dissemination of fund marketing materials, so as not to fall afoul of securities laws restrictions against marketing unregistered offerings to non-QIBs? I mean, how hard would it be for an unscrupulous fund manager who wanted wide dissemination to "leak" his confidential offering memo to the press and then to tell the feds, "whoops, i didn't mean to market to unsophisticated investors, some mean media outlets just printed my marketing materials for spite." Therefore, couldn't one also imagine the feds looking up such a situation with a very jaudiced eye unless the fund manager in question could show a good-faith effort to quash the unauthorized dissemination?

Posted by: Ben_H | [March 29, 2007 10:39 AM](#)

awesome! good for you guys. First Amendment!!

Posted by: Anonymous | [March 29, 2007 10:41 AM](#)

awesome! good for you guys. First Amendment!!

Posted by: Anonymous | [March 29, 2007 10:42 AM](#)

live free or die, bitches. Anon 9:36, suck it.

Posted by: voiceoftheemployee | [March 29, 2007 10:53 AM](#)

well, the "good-faith effort" thing looks very sound

Posted by: rest4 | [March 29, 2007 11:04 AM](#)

Anon 9:36 must not have quite been at the level to invest in Amaranth. I'd still be pissed if I was one of their investors and am pretty sure we shouldn't let them get on with their life after only a few months....

...saying that, Michael Milken is my personal hero so maybe we'll forgive Brian Hunter eventually

Posted by: AJ | [March 29, 2007 11:16 AM](#)

I'll take the case! After all, how many lawyers can a fund management company afford?

Posted by: Lionel Hutz | [March 29, 2007 11:18 AM](#)

Have you guys talked to your lawyers about this? Are you telling me that those confidentiality warnings at the end of every email have no teeth? Why do they say "© **** All rights reserved. Unauthorized use, distribution, duplication or disclosure without the prior written permission of **** is prohibited and may result in prosecution." You're saying that prosecution will never result and this is a bogus warning?

Posted by: Anonymous | [March 29, 2007 11:32 AM](#)

what does your buddy at Above the Law say? Let's start a discussion there and see what other lawyers have to say.

Posted by: Anonymous | [March 29, 2007 12:09 PM](#)

CNBC talent have been known to take "suck it" as an answer.

Posted by: joey maria | [March 29, 2007 12:33 PM](#)

Did the Reuters article get your name wrong? I thought it was Bess Levin, not Beth Levin.

Posted by: anon | [March 29, 2007 01:04 PM](#)

I know Bess Levin and her real name is "Bess," NOT "Beth." Fucking Reuters.

Posted by: Anonymous | [March 29, 2007 01:08 PM](#)

you blogging kids make me proud. tell those canadians to suck it harder. Every business writer in the hemisphere now has a copy of it and do you see those little Canadian turds threatening Bloomberg or Reuters or the NYT? Hell no. When the cops come for Beth Levin, Bess should tell them they just missed her.

Posted by: MSM Hack | [March 29, 2007 03:09 PM](#)

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